

REMARKS

I. General

Claims 1-30, 32-50, and 52-74 are presently pending in the application. The issues in the current Office Action are as follows:

- Claims 1-11 and 33-47 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement.
- Claims 17-22 and 26-27 are rejected under 35 U.S.C. § 112, first paragraph, as being single means claims.
- Claims 4, 8, 19, 29, 36, 49, 56, and 68 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.
- Claims 3 and 8 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.
- Claims 32 and 52-53 are rejected under 35 U.S.C. § 112, second paragraph, as being dependent upon cancelled claims 31 and 51, respectively.
- Claims 1-3, 8-9, 11, 15-18, 22, 26-28, 32-25, 40-41, 44-45, 47-48, 52-55, 59, 63-67, and 74 are rejected under 35 U.S.C. § 103(a) as being unpatentable over US 6,415,321 (hereinafter *Gleichauf*) in view of US 6,611,869 (hereinafter *Eschelbeck*) in further view of Smith, et al., “Operating Firewalls Outside the LAN Perimeter,” (hereinafter *Smith*).
- Claims 5, 21, 37, 58, and 69 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Gleichauf* in view of *Eschelbeck* and *Smith* as applied to claims 3, 18, 28, 35, and 67 respectively above, and further in view of US 6,725,377 (hereinafter *Kouznetsov*).
- Claims 6-7, 10, 12-14, 20, 23-25, 38-39, 43, 46, 57, 60-62, and 70-73 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Gleichauf* in

view of *Eschelbeck* and *Smith* as applied to claims 1, 17, 18, 29, 33, and 65 respectively above, and further in view of US 5,991,881 (hereinafter *Conklin*).

- Claims 30 and 50 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Gleichauf* in view of *Eschelbeck*, *Smith*, and *Kouznetsov* as applied to claims 29 and 49 respectively above, and further in view of *Conklin*.

Applicant appreciates the courtesy and professionalism extended by the Examiner thus far. Applicant hereby traverses the rejections and requests reconsideration and withdrawal in light of the remarks contained herein.

II. Claim Amendments

Claim 3 is amended to recite, in part, “said limits applying to one or more of: a source of a packet and a volume of data.” Support may be found, at least, at paragraphs [0024] and [0026] of the present invention.

III. Claim Rejections

A. 35 U.S.C. § 112 Rejection of Claims 1-11 and 33-47

On page 2 of the Office Action, claims 1-11 and 33-47 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Applicant respectfully traverses the rejection.

The Final Action’s rationale for the rejection is that the “specification does not adequately describe how the information of a receiving device is gathered.” Final Action at 2. Specifically, the rejection draws a distinction between gathering information by inspection of incoming packets and “gathering information that pertains to the operation of the receiving device.” *Id.* at 11. Applicant thanks the Examiner for clarification of the rejection but laments that such clarification was not made until the rejection was made final.

Nevertheless, Applicant points the Examiner to the passage on page 14 of the specification that describes operation of the CDS process. The passage states that the “server listens for messages from the data server(s),” where the data servers are a type of receiving

device. Present Specification at 14. The passage goes on to describe that when the messages are received from the data servers, “the condition parameters are reset by process P.S.C. to adjust ‘red line’ and other warning conditions on the basis of traffic levels.” *Id.* In other words, the specification describes that communications are received from data servers (receiving devices), and the parameters and red lines are reset and adjusted in response to those communications. Therefore, at least in light of the above-described passage on page 14 of the specification, it is believed that claims 1-11 and 33-47 are adequately enabled. Accordingly, Applicant respectfully requests the withdrawal of the 35 U.S.C. § 112 rejection of claims 1-11 and 33-47.

B. 35 U.S.C. § 112 Rejection of Claims 17-22 and 26-27

On page 2 of the Office Action, claims 17-22 and 26-27 are rejected under 35 U.S.C. § 112, first paragraph, as being single means claims. Applicant respectfully traverses the rejection.

In the previous response, Applicant pointed out that claim 17 is not a means plus function claim. In response, the Final Action states that the “claimed invention has undue breadth because it is drawn to an apparatus...with a single part....” Final Action at 12. The above-quoted statement implies that the rejection has abandoned the rationale that claim 17 is a means-plus-function claim (and in any case, the rejection provides no reasoning whatsoever to explain the curious assertion that claim 17 is a means plus function claim). The only reasoning proffered by the rejection is that the claim has a single element. However, single-element claims are only sometimes improper in the context of some means plus function claims. But as shown above, the rejection does not presently assert that claim 17 is a means plus function claim. Therefore, the rejection lacks basis in fact and should be withdrawn.

It is respectfully submitted that dependent claims 18-22 and 26-27 are allowable at least because of their dependence from independent claim 17 for the reasons discussed above. Accordingly, Applicant respectfully requests the withdrawal of the 35 U.S.C. § 112 rejection of claims 17-22 and 26-27.

C. 35 U.S.C. § 112 Rejection of Claims 4, 8, 19, 29, 36, 49, 56, and 68

On page 2 of the Office Action, claims 4, 8, 19, 29, 36, 49, 56, and 68 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Applicant respectfully traverses the rejection.

The rejection states that such claims are not described because the “original specification does not adequately describe how parameters are dynamically changed based upon current system operation.” Final Action at 2. On the contrary, Applicant directs the Examiner’s attention to the passage at page 14 of the present specification that describes operation of the CDS process. Specifically, the passage describes that the CDS process receives communications from a data server and adjusts parameters in response to receiving the communication. Present Specification at 14. Therefore, the rationale of the rejection is incorrect. For at least this reason, withdrawal of the rejection is respectfully requested.

D. 35 U.S.C. § 112 Rejection of Claims 3 and 8

On page 2 of the Office Action, claims 3 and 8 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant respectfully traverses the rejection.

Claim 3 is proper as it is presently written. Nevertheless, in an effort to aid prosecution, Applicant has amended claim 3. Claim 8 is canceled without prejudice. Withdrawal of the rejection is, therefore, respectfully requested.

E. 35 U.S.C. § 112 Rejection of Claims 32 and 52-53

On page 3 of the Office Action, claims 32 and 52-53 are rejected under 35 U.S.C. § 112, second paragraph, as being incomplete for being dependent upon cancelled claims 31 and 51, respectively. Claims 32 and 52-53 are canceled without prejudice. Withdrawal of the rejection is, therefore, respectfully requested.

F. 35 U.S.C. § 103(a) Rejection over *Gleichauf* in view of *Eschelbeck* and *Smith*

On pages 3-8 of the Office Action, claims 1-3, 8-9, 11, 15-18, 22, 26-28, 32-25, 40-41, 44-45, 47-48, 52-55, 59, 63-67, and 74 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Gleichauf* in view of *Eschelbeck* and *Smith*. Applicant respectfully traverses the rejection.

The rejection combines *Gleichauf* and *Eschelbeck* to disclose “active security management of a firewall” using a feedback network. Final Action at 4. The rejection admits that the combination of *Gleichauf* and *Eschelbeck* does not disclose “active security management of a gateway router,” and offers the teachings of *Smith* to “perform active security management on the ACL of a gateway router in *Gleichauf*’s invention.” *Id.* at 4-5. The motivation for modifying the system of *Gleichauf* is to “block attacks as close to the source of the attack as possible.” *Id.* at 5.

The combination, however, does not show that the claimed invention is obvious, at least because the combination is improper. “If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.” M.P.E.P §2143.01(VI) (emphasis in original). In the present case, the proposed combination would change the principle of operation of the system of *Gleichauf* by modifying it with the teachings of *Smith*.

Gleichauf teaches a network security system that includes a particular technique for mapping of a domain network. *E.g.*, *Gleichauf* at Abstract and description of figure 3. The system uses network mapping information to enhance security of the network. *Id.* at Col. 6, lines 50-65. *Gleichauf* teaches the placement of its firewall (firewall 16 of figures 2 and 3) within the domain network, and the firewall monitors and restricts the domain network traffic. *Id.* at Col. 5, lines 1-4 and figures 2 and 3. In other words, *Gleichauf* focuses the actions of its internal network firewall on communications within the network, and the firewall restricts traffic that is already within the network.

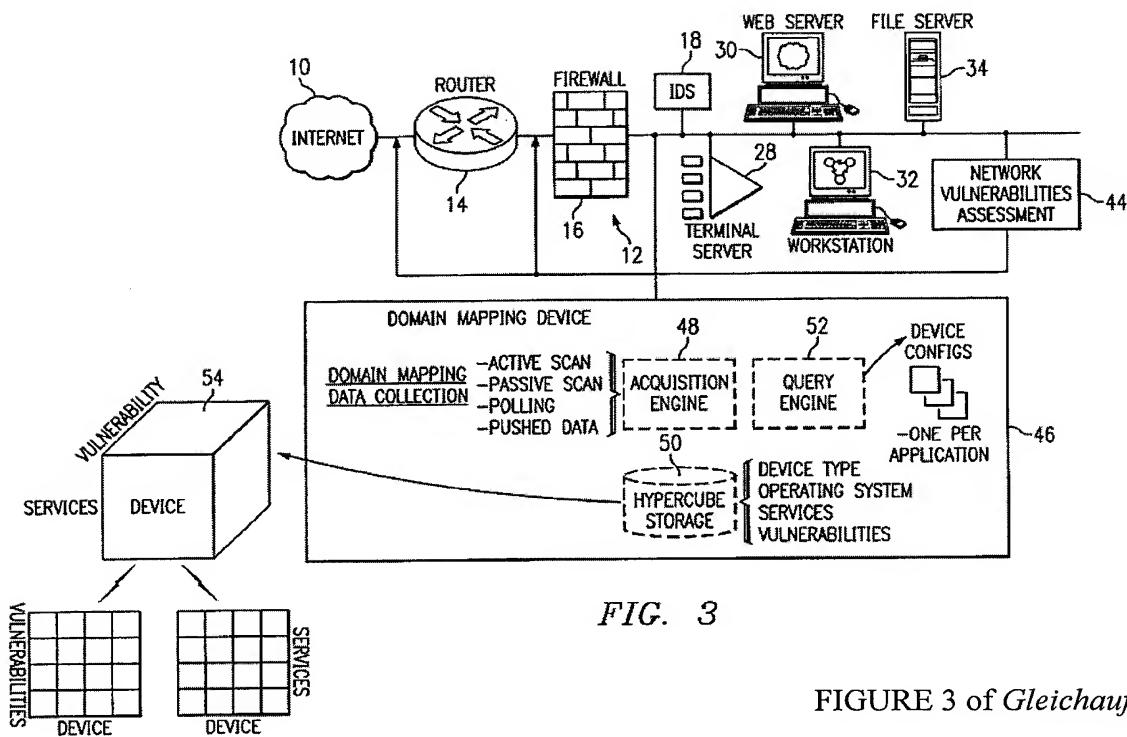


FIGURE 3 of *Gleichauf*

By contrast, *Smith* teaches that firewalls should be “outside of corporate network boundaries, into the Internet.” *Smith* at 493, Col. 1 (Abstract). *Smith* proposes a drastic change in firewall operation wherein instead of allowing harmful traffic to get very close to its intended target (as in the case of typical corporate firewalls and the firewall of *Gleichauf*), gateway firewalls in the Internet nearer the source of the harmful traffic are used to block the traffic as it traverses the Internet. *Id.* at 496, Col. 2. In other words, *Smith* teaches that a domain network or corporate network relies on gateway firewalls spread throughout the Internet for security.

The *Gleichauf* system relies on a firewall 16 within the domain network and with access to specific domain network mapping information to assist the firewall to reduce harmful traffic that is already within the domain network. The rejection proposes to modify *Gleichauf* so that it “block[s] attacks as close to the source of the attack as possible.” Final Action at 5. However, to make the rejection’s proposed combination, the protection afforded by firewall 16 of *Gleichauf* would be relocated out into the Internet to gateway firewalls that have no access to, nor need for, the specific network mapping information that is the crux *Gleichauf*’s teaching. The rejection proposes making a change to the principle of operation

of *Gleichauf*, and the rejection is, therefore, improper. Accordingly, Applicant respectfully requests the withdrawal of the 35 U.S.C. § 103(a) rejection of claims 1-3, 8-9, 11, 15-18, 22, 26-28, 32-25, 40-41, 44-45, 47-48, 52-55, 59, 63-67, and 74.

A. 35 U.S.C. § 103(a) Rejection over *Gleichauf* in view of *Eschelbeck* and *Smith* and further in view of *Kouznetsov*

On pages 8-9 of the Office Action, claims 5, 21, 37, 58, and 69 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Gleichauf* in view of *Eschelbeck* and *Smith* as applied to claims 3, 18, 28, 35, and 67 respectively above, and further in view of hereinafter *Kouznetsov*. Applicant respectfully traverses the rejection.

As shown above, the rejection of the independent claims proposes to improperly modify *Gleichauf*. The rejection of claims 5, 21, 37, 58, and 69 adds *Kouznetsov* but fails to cure the deficiency noted above with respect to the rejection of the independent claims. Therefore, the rejection including *Kouznetsov* fails to show that the claims are obvious. Accordingly, Applicant respectfully requests the withdrawal of the 35 U.S.C. § 103(a) rejection.

B. 35 U.S.C. § 103(a) Rejection over *Gleichauf* in view of *Eschelbeck* and *Smith* and further in view of *Conklin*

On pages 9-11 of the Office Action, claims 6-7, 10, 12-14, 20, 23-25, 38-39, 43, 46, 57, 60-62, and 70-73 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Gleichauf* in view of *Eschelbeck* and *Smith* as applied to claims 1, 17, 18, 29, 33, and 65 respectively above, and further in view of *Conklin*. Applicant respectfully traverses the rejection.

As shown above, the rejection of the independent claims proposes to improperly modify *Gleichauf*. The rejection of claims 6-7, 10, 12-14, 20, 23-25, 38-39, 43, 46, 57, 60-62, and 70-73 adds *Conklin* but fails to cure the deficiency noted above with the rejection of the independent claims. Therefore, the rejection including *Conklin* fails to show that the claims are obvious. Accordingly, Applicant respectfully requests the withdrawal of the 35 U.S.C. § 103(a) rejection.

C. 35 U.S.C. § 103(a) Rejection over *Gleichauf* in view of *Eschelbeck, Smith, and Kouznetsov* and further in view of *Conklin*

On page 11 of the Office Action, claims 30 and 50 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Gleichauf* in view of *Eschelbeck, Smith, and Kouznetsov* as applied to claims 29 and 49 respectively above, and further in view of *Conklin*.

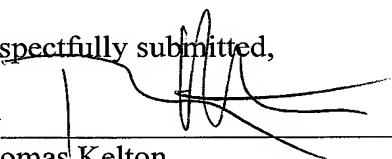
As shown above, the rejection of the independent claims proposes to improperly modify *Gleichauf*. The rejection of claims 30 and 50 adds *Kouznetsov* and *Conklin* but fails to cure the deficiency noted above with respect to the rejection of the independent claims. Therefore, the rejection including *Kouznetsov* and *Conklin* fails to show that the claims are obvious. Accordingly, Applicant respectfully requests the withdrawal of the 35 U.S.C. § 103(a) rejection.

IV. Conclusion

In view of the above, Applicant believes the pending application is in condition for allowance.

The fee of \$405.00 set forth in 37 CFR 1.114 for the accompanying Request for Continued Application will be paid by credit card. Please charge any fees required or credit any overpayment to Deposit Account No. 06-2380, under Order No. 58895/P001C1/10316486 during the pendency of this Application pursuant to 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees.

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Respectfully submitted,

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